

IN THE CHANCERY COURT OF DAVIDSON COUNTY, TENNESSEE
20TH JUDICIAL DISTRICT
AT NASHVILLE
PART III

FILED

2019 MAY -7 PM 3:08

CLERK & MASTER
DAVIDSON CO. CHANCERY CT

D.C. & M

STATE OF TENNESSEE,)
ex rel. JULIE MIX MCPEAK, solely in her)
official capacity as Commissioner of)
Commerce & Insurance,)
)
Plaintiff,)
)
v.)
)
GALILEE MEMORIAL GARDENS,)
JM&M SERVICES, INC.,)
LAMBERT MEMORIAL CO., aka)
LAMBERT MEMORIALS, INC.)
LAMBERT & SONS, INC.,)
JEMAR LAMBERT, MARJE LAMBERT,)
and MARY H. LAMBERT, and ALL)
PERSONS ACTING IN CONCERT)
WITH THEM,)
)
Defendants.)

No. 14-102-II(III)

RECEIVER'S MEMORANDUM ON A POTENTIAL MAY 2019 DAY OF TEMPORARY
VISITATION

Julie Mix McPeak, Commissioner of the Department of Commerce & Insurance (Department), in her official capacity as Receiver of Galilee Memorial Gardens (and JM&M Services, Inc., Lambert Memorial Co., Lambert Memorials, Inc., and Lambert & Sons, Inc., the related entities through which it conducted its business), through her appointed Special Deputy Receiver, Receivership Management, Inc.(RMI), through counsel, hereby files the Receiver's statement and information in response to the Court's Order of April 29, 2019 entitled "5/7/19 Deadline for Receiver's Memorandum on a May 2019 Day of Temporary Visitation." The

4/29/2019 Order directed the Receiver to inform the Court about the feasibility of opening the cemetery for a one (1)-day temporary visitation opportunity during this month of May, 2019.

The Receiver hereby states as follows:

1. In keeping with what is believed to be the Court's intent, the Commissioner as Receiver responds by offering an alternative option which is believed to accomplish what the Court is intending. The Receiver requests to have the opening of the cemetery be made available to the public on a predictable schedule of weekends and holidays, to be made available at first on [Saturday May 25, 2019]. The cemetery would be opened at 8:30 a.m. and closed at 5:30 p.m. every Saturday and Sunday and designated holidays (such as Memorial Day, 4th of July, Labor Day, Veterans Day, Thanksgiving, and Christmas Day).

2. The reasons for this are as follows, deriving from these logistical and cost considerations:

a. Costs of single event opening. While obviously less expensive from the viewpoint of daily opening costs, a single event opening would generate huge traffic and crowds requiring crowd and traffic control with multiple entities involved (City of Bartlett Police Department, Shelby County Sheriff's Office, Office of the Commissioner, and staff of RMI).

b. Costs of daily openings: A preliminary cost of simply opening the gate in the morning and closing it at night would cost approximately \$600 per month. This would be done similarly to the way the Veterans Cemetery is opened in both Memphis and Nashville; however, there would be no one there to monitor the cemetery during the day.

c. Costs of weekend and holiday openings: This would be less, obviously, than the daily openings. This would require notification to the City of Bartlett that the cemetery intends to be open on weekends and holidays so as to allow planning for large crowds that may be present on special days. The Commissioner proposes that, in addition to weekends (which would include the holidays such as Father's Day celebrated on the weekends), the cemetery should be opened for special holidays such as the Fourth of July, Labor Day, Veterans Day, Thanksgiving, Christmas, and Memorial Day. The Commissioner does not intend to have a monitor or staff present on these days at the cemetery. A notice regarding entering at own risk due to the unevenness of the grounds would be posted. No one will be there to monitor or respond to questions. A sign would be posted with RMI's telephone number to ask questions about grave space locations. Posted days and hours for gate opening and closing would be present as well.

DISCUSSION

3. The Receiver and the Department planning for a single day of opening is potentially much more challenging and potentially more costly than having a reduced but more frequent schedule that is announced for regular openings. The Receiver is mindful that the Court was seeking to assist the process by making it a one-time occurrence. Paradoxically, the pressure on resources generated by announcing just a single day opening, and especially a *first day*, after a five-year closure is greater. That plan may not be advisable, due to the crowds that may attend, with a lack of dedicated parking within the cemetery ground, and the existence only of narrow street frontage on the busy road that is Ellis Road.

4. The 2015 One-Day opening, the last undertaken, was planned far in advance, involved a host of volunteers, and coordinated other resources such as the ability of visitors to park at churches or otherwise to travel by bus to the cemetery grounds. There was an ability of persons to accompany and help guide people through the grounds, and to generally monitor the event. Volunteers were trained, equipment was donated, and resources from local law enforcement were voluntarily contributed to help with the traffic flow.

5. The condition of the cemetery grounds, while much improved since 2015, remains uneven and difficult to walk on. It is now understood the degree to which the grounds are in an irregular state. Further, people must visit at their own risk, and be advised to take great care when walking in the cemetery.

6. The Receiver believes that if the cemetery is opened during predictable days and hours, then the Receiver would be able to simply arrange for an individual to open and lock the gates on those days. The cost of that service is believed to be minimal. The Receiver does NOT plan to have persons on hand to provide information about specific gravesites, or to guide

persons through the cemetery. However, it would be planned to have signs posted on site regarding how to inquire about the location of someone buried in Galilee.

7. Mounting this effort for a one-day opening during this month of May is not advantageous, and loses the benefit of staggering the impact and times of families' visitation over several available days.

8. The Receiver recommends and proposes that the cemetery, if it is to be opened, be made available during specific hours of 8:30 a.m. - 5:30 p.m., when the gates could be unlocked and left open for people to visit on the above referenced weekends and holidays.

9. The cost and arrangements associated with this temporary visitation schedule, while still under receivership, is estimated to be \$160.00 per month for weekends and \$20 per holiday.

10. As the Court is aware, the cemetery has no funds, and so the Commissioner would be directing funds for this visitation to be expended from the Cemetery Consumer Protection Account.

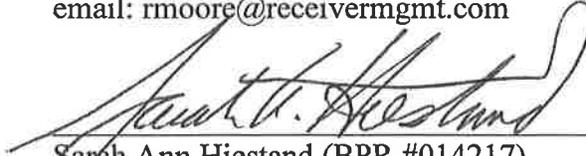
11. The Commissioner is in accord with this recommendation and description to the Court; the advantages of announcing multiple open days for visitation has been weighed against the expense that would be incurred of more frequent openings.

12. If the Court approves a visitation schedule on this basis, the Receiver would undertake to publicize the conditions and the times of such opening.

Respectfully submitted.

Robert E. Moore, Jr. by Attestant with permission
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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Receiver's Memorandum on a Potential May 2019 Day of Temporary Visitation has been mailed First Class Postage prepaid to the following interested parties and attorneys requesting notice and transmitted via email this 7th day of May, 2019:

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